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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 07, 2021

SEAN F. MCVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RAYMOND WETMORE-TINNEY,
Petitioner,

v.

SUPERIOR COURT, JOHN DOE, JANE
DOE, SPOKANE PROSECUTORS'
OFFICE, SPOKANE COUNTY JAIL and
JAIL COMMANDER BARBER,

Respondents.

No. 2:21-CV-00195-SAB

**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

Before the Court is Petitioner's Response to the Order to show cause why this action should not be dismissed. ECF No. 11. Petitioner, a pre-trial detainee at Spokane County Detention Services, is proceeding *pro se* and *in forma pauperis*; Respondents have not been served.

By Order filed July 30, 2021, the Court found that federal intervention in Petitioner's pending state court criminal proceedings was not warranted under *Younger v. Harris*, 401 U.S. 37, 41 (1971). ECF No. 10. Petitioner had initiated this action with a Petition for Writ of Mandamus. ECF No. 1. He now acknowledges that a Habeas Corpus Petition pursuant to 28 U.S.C. § 2241 is the appropriate vehicle to challenge pre-trial confinement.

ORDER DISMISSING ACTION WITHOUT PREJUDICE -- 1

1 Nevertheless, Petitioner has presented no facts from which this Court could
 2 infer that federal habeas relief is warranted at this time. Petitioner asserts, “There is
 3 a clear absence of a[n] adequate, effective state remedy, which would cause
 4 extraordinary harm/irreparable harm.” ECF No. 11 at 2. He then describes the
 5 health of his mother and his efforts to “help keep her out of a nursing home.” *Id.*

6 Petitioner claims that “the state is using false fta’s [presumably accusations
 7 that Petitioner failed to appear at hearings] and false charges to keep him
 8 incarcerated in jail at the time of issuance.” *Id.* Petitioner presents no factual
 9 support for his assertions, arguing only that he is being “deni[ed] his presumption
 10 [sic] of innocence” and his “8th Amend, and Due process and Equal Protection of
 11 laws” are being violated. *Id.* He requests discovery. *Id.*

12 Although Petitioner avers that “due process and bail claims are immediately
 13 reviewable in federal court,” *id.* at 3-4, he offers no facts from which the Court
 14 could infer that he has been denied due process or subjected to excessive bail
 15 without a constitutional hearing. Furthermore, Petitioner argues that *Younger*
 16 abstention is not applicable to his case, but he does not support his argument with
 17 any facts. *Id.* at 5.

18 Petitioner claims that he is entitled to the relief he seeks “because he is
 19 innocent of these false new charges and never found guilty and never comitted
 20 [sic] a crime as Exhibit 1 page 2 at 4 states.” *Id.* Petitioner’s unsupported, self-
 21 serving declarations provide no basis for this Court to intervene in his state court
 22 criminal proceedings.

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1 Therefore, for the reasons set forth above and in the Order to Show Cause,
2 ECF No. 10, **IT IS HEREBY ORDERED:**

3 1. This action is **DISMISSED without prejudice** to Petitioner seeking
4 appropriate relief in his state court criminal proceedings.

5 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order,
6 enter judgment, provide copies to Petitioner, and **close** the file. The Court certifies
7 that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be
8 taken in good faith and there is no basis upon which to issue a certificate of
9 appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of
10 appealability is therefore **DENIED**.



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14 Stanley A. Bastian

15 Stanley A. Bastian
16 Chief United States District Judge
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